

By: Springer, Guillen

H.B. No. 1300

A BILL TO BE ENTITLED

AN ACT

relating to the collection and use of certain hotel occupancy taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 334.001, Local Government Code, is amended by amending Subdivisions (1) and (4) and adding Subdivision (1-a) to read as follows:

(1) "Active transportation" means transportation that is wholly or primarily powered by human energy. The term includes walking, running, and bicycling.

(1-a) "Approved venue project" means a sports and community venue project that has been approved under this chapter by the voters of a municipality or county.

(4) "Venue" means:

(A) an arena, coliseum, stadium, or other type of area or facility:

(i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including rodeos, livestock shows, agricultural expositions, promotional events, and other civic or charitable events; and

(ii) for which a fee for admission to the events is charged or is planned to be charged;

(B) a convention center, convention center

1 facility as defined by Section 351.001(2) or 352.001(2), Tax Code,
2 or related improvement such as a civic center hotel, theater, opera
3 house, music hall, rehearsal hall, park, zoological park, museum,
4 aquarium, or plaza located in the vicinity of a convention center or
5 facility owned by a municipality or a county;

6 (C) a tourist development area [~~along an inland~~
7 ~~waterway~~];

8 (D) a municipal parks and recreation system, or
9 improvements or additions to a parks and recreation system, or an
10 area or facility, including an area or facility for active
11 transportation use, that is part of a municipal parks and
12 recreation system;

13 (E) a project authorized by Section 4A or 4B,
14 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
15 Civil Statutes), as that Act existed on September 1, 1997; [~~and~~]

16 (F) a watershed protection and preservation
17 project; a recharge, recharge area, or recharge feature protection
18 project; a conservation easement; or an open-space preservation
19 program intended to protect water; and

20 (G) an airport facility located in a municipality
21 located on the international border.

22 SECTION 2. Section 334.1015, Local Government Code, is
23 amended to read as follows:

24 Sec. 334.1015. APPLICATION. (a) Except as provided by
25 Subsection (b), this [~~This~~] subchapter does not apply to the
26 financing of a venue project that is an area or facility that is
27 part of a municipal parks and recreation system.

1 (b) A municipality located on the international border may
2 finance a venue project described by Section 334.001(4)(D) with the
3 revenue from a tax imposed under this subchapter.

4 SECTION 3. Section 334.2515, Local Government Code, is
5 amended to read as follows:

6 Sec. 334.2515. APPLICATION. Except as provided by Section
7 334.2516, this subchapter does not apply to the financing of a venue
8 project that is:

9 (1) an area described by Section 334.001(4)(C);

10 (2) an area or facility that is part of a municipal
11 parks and recreation system as described by Section 334.001(4)(D);
12 [or]

13 (3) [-(2)] a project described by Section
14 334.001(4)(E), except for a project [projects] described by [in]
15 Section 334.001(4)(A); or

16 (4) a facility described by Section 334.001(4)(G).

17 SECTION 4. Subchapter A, Chapter 351, Tax Code, is amended
18 by adding Section 351.0043 to read as follows:

19 Sec. 351.0043. TAX COLLECTION BY SHORT-TERM RENTAL
20 MARKETPLACE. (a) For purposes of this section:

21 (1) "Booking charge" means the charge imposed on a
22 person by a host for the purpose of renting a short-term rental in
23 this state and includes any fees charged by the host, regardless of
24 whether separately itemized.

25 (2) "Host" means a person who owns a short-term rental
26 and offers the short-term rental for rent through a short-term
27 rental marketplace or, if applicable, that person's authorized

agent who offers the short-term rental for rent through a short-term rental marketplace.

(3) "Short-term rental" has the meaning assigned by Section 156.001.

(4) "Short-term rental marketplace" means a marketplace, Internet website, mobile application, or other platform:

(A) through which a host offers a short-term rental for rent; and

(B) that collects the booking charge for the rental of the short-term rental.

(b) Notwithstanding Section 351.004 or any other law:

(1) a short-term rental marketplace:

(A) shall collect the appropriate amount of the tax imposed under this chapter by a municipality in which a short-term rental is located on each booking charge with respect to that short-term rental;

(B) shall report and remit all taxes collected by the short-term rental marketplace under Paragraph (A) in the manner required:

(i) of a person owning, operating, managing, or controlling a hotel under this chapter and in accordance with the ordinance adopted by the municipality imposing the tax; or

(ii) if applicable, by an agreement under this section; and

(C) is considered to be the person owning,

operating, managing, or controlling the short-term rental for purposes of the collection and enforcement of the tax imposed under this chapter; and

(2) the host may not collect and is not liable for a tax imposed by this chapter on a booking charge for a rental made through the short-term rental marketplace.

(c) A short-term rental marketplace may:

(1) enter into an agreement with the comptroller to collect and remit to the comptroller the taxes imposed by a municipality under this chapter on each booking charge for a rental made through the short-term rental marketplace; or

(2) enter into an agreement with a third-party vendor to remit to the municipality the taxes described by Subdivision (1) that the short-term rental marketplace collects.

(d) To be effective, an agreement described by Subsection (c)(2) must be approved by the governing body of the municipality. During the period an agreement described by Subsection (c) is in effect, the short-term rental marketplace shall report and remit all taxes collected by the short-term rental marketplace under Subsection (b):

(1) to the comptroller on a schedule determined by the comptroller, if the agreement in effect is with the comptroller; or

(2) to the third-party vendor on a schedule determined by the vendor, if the agreement in effect is with a vendor.

(e) The comptroller or third-party vendor, as applicable, shall promulgate a form a short-term rental marketplace must use to report the taxes collected by the short-term rental marketplace

under this section if an agreement under Subsection (c) is in effect. The form must include the following information:

(1) the total receipts from the rental during the reporting period of all short-term rentals located in any municipality that has approved an agreement under this section and offered for rent through the short-term rental marketplace, categorized by municipality in which those short-term rentals are located;

(2) the total amount of booking charges from the rental during the reporting period of all short-term rentals located in any municipality that has approved an agreement under this section and offered for rent through the short-term rental marketplace, categorized by municipality in which those short-term rentals are located;

(3) the rate of the tax imposed under this chapter in each municipality identified under Subdivision (2); and

(4) the total receipts and the total amount of booking charges from the rental during the reporting period of all short-term rentals located in a project financing zone as defined by Section 351.1015 and offered for rent through the short-term rental marketplace, categorized by project financing zone.

(f) The form described by Subsection (e) may not require the identification of a specific guest or the host of a short-term rental.

(g) If the short-term rental marketplace collects and remits to the comptroller the taxes imposed by the municipality under this chapter in accordance with an agreement under Subsection

1 (c)(1), the comptroller shall:

2 (1) deposit the taxes remitted to the comptroller
3 under this section in trust in the separate suspense account of the
4 municipality in which short-term rentals with respect to which the
5 taxes were collected are located; and

6 (2) send to the municipal treasurer or to the person
7 who performs the office of the municipal treasurer payable to the
8 municipality the municipality's share of the taxes remitted to the
9 comptroller under this chapter at least 12 times during each state
10 fiscal year.

11 (h) A suspense account described by Subsection (g)(1) is
12 outside the treasury and the comptroller may make a payment from the
13 account without the necessity of an appropriation.

14 (i) Before sending any money to a municipality under
15 Subsection (g) and subject to the limitation provided by this
16 subsection, the comptroller shall deduct and deposit to the credit
17 of the general revenue fund an amount equal to one-half of one
18 percent of the amount of the taxes collected from rentals of
19 short-term rentals located in the municipality under this section
20 during the period for which a distribution is made as the state's
21 charge for services provided by the state under this section. The
22 comptroller may not deduct from the distributions to a municipality
23 more than \$50,000 in each state fiscal year under this subsection.

24 (j) If the short-term rental marketplace enters into an
25 agreement with a third-party vendor under Subsection (c)(2), the
26 vendor shall report and remit to a municipality that approved the
27 agreement all taxes imposed by the municipality under this chapter

1 and collected by the short-term rental marketplace on rentals of
2 short-term rentals located in that municipality at the times and in
3 the manner provided by the agreement.

4 (k) Notwithstanding any other law, this section applies to
5 the collection, remittance, and distribution of taxes imposed by a
6 political subdivision that is authorized to impose a hotel
7 occupancy tax under a provision of the Special District Local Laws
8 Code or Vernon's Texas Civil Statutes in the same manner the section
9 applies to a municipality authorized to impose a hotel occupancy
10 tax under this chapter.

11 (l) The comptroller may adopt rules to implement and
12 administer this section.

13 SECTION 5. Section 351.005, Tax Code, is amended to read as
14 follows:

15 Sec. 351.005. REIMBURSEMENT FOR EXPENSES OF TAX COLLECTION
16 AND USE OF ELECTRONIC TAX ADMINISTRATION SYSTEM. (a) A
17 municipality may permit a person who is required to collect and pay
18 over to the municipality the tax authorized by this chapter to
19 withhold not more than one percent of the amount of the tax
20 collected and required to be reported as reimbursement to the
21 person for the cost of [~~costs in~~] collecting the tax [~~and, if~~
22 ~~applicable, the use of an electronic tax administration system~~
23 ~~described by Section 351.1012~~].

24 (b) If a municipality uses revenue derived from the tax
25 authorized by this chapter to create, maintain, operate, or
26 administer an electronic tax administration system as authorized by
27 Section 351.1012, the municipality shall permit a person who is

1 required to collect and pay over to the municipality the tax
2 authorized by this chapter to withhold not more than one percent of
3 the amount of the tax collected and required to be reported as
4 reimbursement to the person for the cost of collecting the tax.

5 (c) The municipality may provide that the reimbursement
6 provided or required by this section be forfeited because of a
7 failure to pay the tax or to file a report as required by the
8 municipality.

9 SECTION 6. (a) Section 351.101(a), Tax Code, as amended by
10 Chapters 666 (H.B. 3772) and 979 (H.B. 3615), Acts of the 84th
11 Legislature, Regular Session, 2015, is reenacted and amended to
12 read as follows:

13 (a) Revenue from the municipal hotel occupancy tax may be
14 used only to promote tourism and the convention and hotel industry,
15 and that use is limited to the following:

16 (1) the acquisition of sites for and the construction,
17 improvement, enlarging, equipping, repairing, operation, and
18 maintenance of convention center facilities or visitor information
19 centers, or both;

20 (2) the furnishing of facilities, personnel, and
21 materials for the registration of convention delegates or
22 registrants;

23 (3) advertising and conducting solicitations and
24 promotional programs to attract tourists and convention delegates
25 or registrants to the municipality or its vicinity;

26 (4) the encouragement, promotion, improvement, and
27 application of the arts, including instrumental and vocal music,

1 dance, drama, folk art, creative writing, architecture, design and
2 allied fields, painting, sculpture, photography, graphic and craft
3 arts, motion pictures, radio, television, tape and sound recording,
4 and other arts related to the presentation, performance, execution,
5 and exhibition of these major art forms;

6 (5) historical restoration and preservation projects
7 or activities or advertising and conducting solicitations and
8 promotional programs to encourage tourists and convention
9 delegates to visit preserved historic sites or museums:

10 (A) at or in the immediate vicinity of convention
11 center facilities or visitor information centers; or

12 (B) located elsewhere in the municipality or its
13 vicinity that would be frequented by tourists and convention
14 delegates;

15 (6) for a municipality located in a county with a
16 population of one million or less, expenses, including promotion
17 expenses, directly related to a sporting event in which the
18 majority of participants are tourists who substantially increase
19 economic activity at hotels and motels within the municipality or
20 its vicinity;

21 (7) subject to Section [351.1076](#), the promotion of
22 tourism by the enhancement and upgrading of existing sports
23 facilities or fields, including facilities or fields for baseball,
24 softball, soccer, flag football, and rodeos, if:

25 (A) the municipality owns the facilities or
26 fields;

27 (B) the municipality:

1 (i) has a population of 80,000 or more and
2 is located in a county that has a population of 350,000 or less;

3 (ii) has a population of at least 75,000 but
4 not more than 95,000 and is located in a county that has a
5 population of less than 200,000 but more than 160,000;

6 (iii) has a population of at least 36,000
7 but not more than 39,000 and is located in a county that has a
8 population of 100,000 or less that is not adjacent to a county with
9 a population of more than two million;

10 (iv) has a population of at least 13,000 but
11 less than 39,000 and is located in a county that has a population of
12 at least 200,000;

13 (v) has a population of at least 70,000 but
14 less than 90,000 and no part of which is located in a county with a
15 population greater than 150,000;

16 (vi) is located in a county that:

17 (a) is adjacent to the Texas-Mexico
18 border;

19 (b) has a population of at least
20 500,000; and

21 (c) does not have a municipality with
22 a population greater than 500,000;

23 (vii) has a population of at least 25,000
24 but not more than 26,000 and is located in a county that has a
25 population of 90,000 or less;

26 (viii) [~~(ix)~~] is located in a county that
27 has a population of not more than 300,000 and in which a component

1 university of the University of Houston System is located; [~~or~~]

2 (ix) [~~(x)~~] has a population of at least
3 40,000 and the San Marcos River flows through the municipality; or

4 (x) contains an intersection of Interstates
5 35E and 35W and at least two public universities; and

6 (C) the sports facilities and fields have been
7 used, in the preceding calendar year, a combined total of more than
8 10 times for district, state, regional, or national sports
9 tournaments;

10 (8) for a municipality with a population of at least
11 70,000 but less than 90,000, no part of which is located in a county
12 with a population greater than 150,000, the construction,
13 improvement, enlarging, equipping, repairing, operation, and
14 maintenance of a coliseum or multiuse facility;

15 (9) signage directing the public to sights and
16 attractions that are visited frequently by hotel guests in the
17 municipality;

18 (10) the construction, improvement, enlarging,
19 equipping, repairing, operation, and maintenance of a coliseum or
20 multiuse facility, if the municipality:

21 (A) has a population of at least 90,000 but less
22 than 120,000; and

23 (B) is located in two counties, at least one of
24 which contains the headwaters of the San Gabriel River; and

25 (11) for a municipality with a population of more than
26 175,000 but less than 225,000 that is located in two counties, each
27 of which has a population of less than 200,000, the construction,

1 improvement, enlarging, equipping, repairing, operation, and
2 maintenance of a coliseum or multiuse facility and related
3 infrastructure or a venue, as defined by Section 334.001(4), Local
4 Government Code, that is related to the promotion of tourism.

5 (b) To the extent of any conflict, this section controls
6 over another Act of the 85th Legislature, Regular Session, 2017,
7 relating to nonsubstantive additions to and corrections in enacted
8 codes.

9 (c) This section takes effect immediately if this Act
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for this section to
13 have immediate effect, this section takes effect September 1, 2017.

14 SECTION 7. Section 351.101, Tax Code, is amended by adding
15 Subsection (o) to read as follows:

16 (o) In addition to the purposes provided by Subsection (a),
17 a municipality that has a population of not more than 10,000, that
18 contains an outdoor gear and sporting goods retailer with retail
19 space larger than 175,000 square feet, and that hosts an annual
20 wiener dog race may use revenue from the municipal hotel occupancy
21 tax to promote tourism and the convention and hotel industry by
22 constructing, operating, or expanding a sporting related facility
23 or sports field owned by the municipality, if the majority of the
24 events at the facility or field are directly related to a sporting
25 event in which the majority of participants are tourists who
26 substantially increase economic activity at hotels in the
27 municipality. If a municipality to which this subsection applies

uses revenue derived from the municipal hotel occupancy tax for a purpose described by this subsection, the municipality may not reduce the percentage of revenue from that tax allocated for a purpose described by Subsection (a)(3) to a percentage that is less than the average percentage of that revenue allocated by the municipality for that purpose during the 36-month period preceding the date the municipality begins using the revenue for a purpose described by this subsection.

SECTION 8. Section 351.1012(a), Tax Code, is amended to read as follows:

(a) Notwithstanding any other provision of this chapter, a municipality may spend each year not more than the lesser of one percent or \$75,000 of the revenue derived from the tax authorized by this chapter during that year for the creation, maintenance, operation, and administration of an electronic tax administration system. A municipality may not use revenue the municipality is authorized to spend under this subsection to conduct an audit.

SECTION 9. Section 351.1078, Tax Code, is amended to read as follows:

Sec. 351.1078. ALLOCATION OF REVENUE: CERTAIN MUNICIPALITIES. (a) A municipality that spends municipal hotel occupancy tax revenue as authorized by Section 351.101(i) or (o):

(1) may not use municipal hotel occupancy tax revenue for the acquisition of land for the sporting related facility or sports field described by that subsection;

(2) shall annually determine and prepare and publish on the municipality's Internet website a report on the events held

1 at the facility or field, the number of hotel room nights
2 attributable to events held at the facility or field, and the amount
3 of hotel revenue and municipal tax revenue attributable to the
4 sports events and tournaments held at the facility or field for five
5 years after the date the construction expenditures are completed;
6 and

7 (3) may only spend hotel occupancy tax revenue for
8 operational expenses of the facility or field if the costs are
9 directly related to a sporting event in which the majority of
10 participants are tourists who substantially increase economic
11 activity at hotels in or near the municipality.

12 (b) The municipality shall reimburse to the municipality's
13 hotel occupancy tax revenue fund from the municipality's general
14 fund any expenditure in excess of the amount of area hotel revenue
15 attributable to sporting events held at the sporting related
16 facility or sports field described by Section 351.101(i) or (o) for
17 five years after the date the construction or expansion of the
18 facility or field described by that subsection is completed.

19 SECTION 10. Subchapter A, Chapter 352, Tax Code, is amended
20 by adding Section 352.0042 to read as follows:

21 Sec. 352.0042. TAX COLLECTION BY SHORT-TERM RENTAL
22 MARKETPLACE. (a) For purposes of this section:

23 (1) "Booking charge," "host," and "short-term rental
24 marketplace" have the meanings assigned by Section 351.0043.

25 (2) "Short-term rental" has the meaning assigned by
26 Section 156.001.

27 (b) Notwithstanding Section 352.004 or any other law:

1 (1) a short-term rental marketplace:

2 (A) shall collect the appropriate amount of the
3 tax imposed under this chapter by a county in which a short-term
4 rental is located on each booking charge with respect to that
5 short-term rental;

6 (B) shall report and remit all taxes collected by
7 the short-term rental marketplace under Paragraph (A) in the manner
8 required:

9 (i) of a person owning, operating,
10 managing, or controlling a hotel under this chapter and in
11 accordance with the order adopted by the county imposing the tax; or

12 (ii) if applicable, by an agreement under
13 this section; and

14 (C) is considered to be the person owning,
15 operating, managing, or controlling the short-term rental for
16 purposes of the collection and enforcement of the tax imposed under
17 this chapter; and

18 (2) the host may not collect and is not liable for a
19 tax imposed by this chapter on a booking charge for a rental made
20 through the short-term rental marketplace.

21 (c) A short-term rental marketplace may:

22 (1) enter into an agreement with the comptroller to
23 collect and remit to the comptroller the taxes imposed by a county
24 under this chapter on each booking charge for a rental made through
25 the short-term rental marketplace; or

26 (2) enter into an agreement with a third-party vendor
27 to remit to the county the taxes described by Subdivision (1) that

1 the short-term rental marketplace collects.

2 (d) To be effective, an agreement described by Subsection
3 (c)(2) must be approved by the commissioners court of the county.
4 During the period an agreement described by Subsection (c) is in
5 effect, the short-term rental marketplace shall report and remit
6 all taxes collected by the short-term rental marketplace under
7 Subsection (b):

8 (1) to the comptroller on a schedule determined by the
9 comptroller, if the agreement in effect is with the comptroller; or

10 (2) to the third-party vendor on a schedule determined
11 by the vendor, if the agreement in effect is with a vendor.

12 (e) The comptroller or third-party vendor, as applicable,
13 shall promulgate a form a short-term rental marketplace must use to
14 report the taxes collected by the short-term rental marketplace
15 under this section if an agreement under Subsection (c) is in
16 effect. The form must include the following information:

17 (1) the total receipts from the rental during the
18 reporting period of all short-term rentals located in any county
19 that has approved an agreement under this section and offered for
20 rent through the short-term rental marketplace, categorized by
21 county in which those short-term rentals are located;

22 (2) the total amount of booking charges from the
23 rental during the reporting period of all short-term rentals
24 located in any county that has approved an agreement under this
25 section and offered for rent through the short-term rental
26 marketplace, categorized by county in which those short-term
27 rentals are located; and

1 (3) the rate of the tax imposed under this chapter in
2 each county identified under Subdivision (2).

3 (f) The form described by Subsection (e) may not require the
4 identification of a specific guest or the host of a short-term
5 rental.

6 (g) If the short-term rental marketplace collects and
7 remits to the comptroller the taxes imposed by the county under this
8 chapter in accordance with an agreement under Subsection (c)(1),
9 the comptroller shall:

10 (1) deposit the taxes remitted to the comptroller
11 under this section in trust in the separate suspense account of the
12 county in which short-term rentals with respect to which the taxes
13 were collected are located; and

14 (2) send to the county treasurer payable to the county
15 the county's share of the taxes remitted to the comptroller under
16 this chapter at least 12 times during each state fiscal year.

17 (h) A suspense account described by Subsection (g)(1) is
18 outside the treasury and the comptroller may make a payment from the
19 account without the necessity of an appropriation.

20 (i) Before sending any money to a county under Subsection
21 (g) and subject to the limitation provided by this subsection, the
22 comptroller shall deduct and deposit to the credit of the general
23 revenue fund an amount equal to one-half of one percent of the
24 amount of the taxes collected from rentals of short-term rentals
25 located in the county under this section during the period for which
26 a distribution is made as the state's charge for services provided
27 by the state under this section. The comptroller may not deduct

1 from the distributions to a county more than \$50,000 in each state
2 fiscal year under this subsection.

3 (j) If the short-term rental marketplace enters into an
4 agreement with a third-party vendor under Subsection (c)(2), the
5 vendor shall report and remit to a county that approved the
6 agreement all taxes imposed by the county under this chapter and
7 collected by the short-term rental marketplace on rentals of
8 short-term rentals located in that county at the times and in the
9 manner provided by the agreement.

10 (k) Notwithstanding any other law, this section applies to
11 the collection, remittance, and distribution of taxes imposed by a
12 political subdivision that is authorized to impose a hotel
13 occupancy tax under a provision of the Special District Local Laws
14 Code or Vernon's Texas Civil Statutes in the same manner the section
15 applies to a county authorized to impose a hotel occupancy tax under
16 this chapter.

17 (l) The comptroller may adopt rules to implement and
18 administer this section.

19 SECTION 11. Section 352.103, Tax Code, is amended to read as
20 follows:

21 Sec. 352.103. USE OF REVENUE: COUNTIES WITH NO
22 MUNICIPALITY. (a) Except as provided by Subsection (b), the [The]
23 revenue from a tax imposed under this chapter by a county that has
24 no municipality may be used only for:

25 (1) the purposes provided by Sections 351.101(a)(1),
26 (2), and (4);

27 (2) advertising for general promotional and tourist

1 advertising of the county and conducting a solicitation program to
2 attract conventions and visitors either by the county or through
3 contracts with persons or organizations selected by the
4 commissioners court; and

5 (3) historical preservation and restoration.

6 (b) Notwithstanding any other provision of this chapter, a
7 county described by Subsection (a) that owns an airport may use
8 revenue from a tax imposed under this chapter for repairs and
9 improvements to the county airport or reimbursement for repairs and
10 improvements to the airport.

11 (c) A county to which Subsection (b) applies may not use
12 revenue from a tax imposed under this chapter for a purpose
13 described by Subsection (b) in a total amount that would exceed the
14 amount of hotel revenue in the county that is likely to be
15 reasonably attributable to guests traveling through the airport
16 during the 15-year period beginning on the date the county first
17 uses the tax revenue for that purpose.

18 (d) A county to which Subsection (b) applies may not use
19 revenue from a tax imposed under this chapter for a purpose
20 described by Subsection (b) after the 10th anniversary of the date
21 the county first uses that revenue for that purpose.

22 SECTION 12. The change in law made by this Act does not
23 affect tax liability accruing before the effective date of this
24 Act. That liability continues in effect as if this Act had not been
25 enacted, and the former law is continued in effect for the
26 collection of taxes due and for civil and criminal enforcement of
27 the liability for those taxes.

H.B. No. 1300

1 SECTION 13. Except as otherwise provided by this Act, this
2 Act takes effect January 1, 2018.